gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. I thank my colleague and our chairman for yielding time.

Madam Speaker, I am rising today in strong support of Senate bill 3199, the Early Hearing Detection and Intervention Act. And I am very proud to have introduced the House version of this bill with our colleague Congresswoman JO ANN EMERSON of Missouri. The House did pass this legislation by voice vote in March of 2009, and the Senate version, introduced by Senators SNOWE and HARKIN, was modified by the Senate HELP Committee and passed by unanimous consent earlier this week. Senate bill 3199 is noncontroversial and would make needed improvements to the Early Hearing Detection and Intervention Program, as recommended by experts.

Each year, more than 12,000 infants are born with a hearing loss. If left undetected, this condition impedes speech, language, and cognitive development. And I might add, with concerns for the cost, the cost to taxpayers of not recognizing these needs and intervening, the cost in special education, in modified vocational goals for individuals who will be a burden to taxpayers the rest of their lives is unbelievably high.

Since the authorization of the Early Hearing Detection and Intervention Program in early 2000, we have seen a tremendous increase in the number of newborns who are being screened for hearing loss. Back in 2000, only 44 percent of newborns were being screened for hearing loss. Now we are screening newborns at a rate of over 93 percent. But you know, our work isn't done yet. According to CDC, almost half of newborns who fail initial hearing screenings do not receive appropriate followup care. And in my work as a school nurse for over 20 years, I had much interaction with students who were lagging behind their classmates due to undiagnosed and/or untreated hearing loss. We can prevent more children from suffering in the classroom and suffering throughout their lives through a better investment in followup and intervention as a part of the successful hearing screening program for newborns and infants.

This legislation would accomplish these goals through reauthorizing the programs administered by HRSA, CDC, and the NIH, providing grants to conduct newborn hearing screening, provide followup intervention to promote surveillance and research. So I am strongly urging my colleagues to join me in voting in favor of Senate bill 3199, to continue building on the great success of these programs.

Mr. TERRY. I reserve the balance of my time.

Mr. PALLONE. Madam Speaker, I would like to yield 2 minutes now to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY of Massachusetts. I thank the chair very much, and I thank him for his great work.

The poet Robert Browning once wrote, ''Grow old with me. The best is yet to be.'' Unfortunately, the golden years can be the worst years for Americans afflicted with Alzheimer's and their families. We have worked with the Senate to put together a bipartisan bill that has just passed here in the United States House of Representatives that I have worked on over the last 2 years that will put together an Alzheimer's plan, a battle plan for our country. And why is it important? I will tell you very simply: 4 million Americans have Alzheimer's today. There are going to be 12 million to 15 million baby boomers with Alzheimer's. They will have a spouse who also has the disease or some other family member. Somebody in the family has to take care of that person. So by the time all the baby boomers have retired, there will be about 25 million to 30 million Americans whose lives will revolve around Alzheimer's.

□ 1200

We have to find a cure for it. We have to find a way of giving more help to these heroes, these families.

My father was a milkman. My mother was a valedictorian. My mother got Alzheimer's. My father kept her in the living room. For 13 years, we kept her in our living room. My father always said that it was an honor that my mother had married him, the milkman. He also said that if the strength of your brain determined who got Alzheimer's, he said that he would have it and my mother would be taking care of him.

But this is an equal opportunity disease. It's an epidemic. If we do not find the cure, if we do not find the cure, the budget problems for our country will be so explosive that it will be impossible to ever balance the Federal budget.

We are now spending a fortune on it, and unless we cure it, we will never be able to deal with the catastrophic consequences personally, for those families, and for our country, in general.

I thank the gentleman for allowing me this personal privilege, because I was pulled away as the bill was being considered.

Mr. TERRY. Madam Speaker, I thank the gentleman from Massachusetts for his efforts in fighting Alzheimer's and working for those families.

With that, I yield back the balance of my time.

Mr. PALLONE. Madam Speaker, I yield myself such time as I may consume.

I just wanted to mention that the three bills today are just a small representation of many bipartisan public health bills that the majority and minority worked on together in the Health Subcommittee over the past 2 years. And I wanted to thank the ranking member of the Health Subcommittee, Mr. SHIMKUS, for his hard work and cooperation in these efforts. In the summer and fall alone, the House passed 25 bipartisan health bills that came from our Health Subcommittee.

And I also want to thank the staff that worked on these public health bills this past Congress. From the majority is Ruth Katz, Steve Cha, Sarah Despres, Emily, who's here with me, Emily Gibbons, Tiffany Guarascio, Anne Morris, Camille Sealy, Naomi Seiler, Tim Westmoreland, and Karen Nelson, of course. And from the minority, Ryan Long, Clay Alspach, Peter Kielty, and Chris Sarley.

Madam Speaker, I ask for passage of the legislation.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. PALLONE) that the House suspend the rules and pass the bill, S. 3199.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RESTORE ONLINE SHOPPERS' CONFIDENCE ACT

Mr. BOUCHER. Madam Speaker, I move to suspend the rules and pass the bill (S. 3386) to protect consumers from certain aggressive sales tactics on the Internet.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Restore Online Shoppers' Confidence Act''.

SEC. 2. FINDINGS; DECLARATION OF POLICY.

The Congress finds the following:

(1) The Internet has become an important channel of commerce in the United States, accounting for billions of dollars in retail sales every year. Over half of all American adults have now either made an online purchase or an online travel reservation.

(2) Consumer confidence is essential to the growth of online commerce. To continue its development as a marketplace, the Internet must provide consumers with clear, accurate information and give sellers an opportunity to fairly compete with one another for consumers' business.

(3) An investigation by the Senate Committee on Commerce, Science, and Transportation found abundant evidence that the aggressive sales tactics many companies use against their online customers have undermined consumer confidence in the Internet and thereby harmed the American economy.

(4) The Committee showed that, in exchange for ''bounties'' and other payments, hundreds of reputable online retailers and websites shared their customers' billing information, including credit card and debit card numbers, with third party sellers through a process known as ''data pass''. These third party sellers in turn used aggressive, misleading sales tactics to charge millions of American consumers for membership clubs the consumers did not want.

(5) Third party sellers offered membership clubs to consumers as they were in the process of completing their initial transactions

on hundreds of websites. These third party ''post-transaction'' offers were designed to make consumers think the offers were part of the initial purchase, rather than a new transaction with a new seller.

(6) Third party sellers charged millions of consumers for membership clubs without ever obtaining consumers' billing information, including their credit or debit card information, directly from the consumers. Because third party sellers acquired consumers' billing information from the initial merchant through ''data pass'', millions of consumers were unaware they had been enrolled in membership clubs.

(7) The use of a ''data pass'' process defied consumers' expectations that they could only be charged for a good or a service if they submitted their billing information, including their complete credit or debit card numbers.

(8) Third party sellers used a free trial period to enroll members, after which they periodically charged consumers until consumers affirmatively canceled the memberships. This use of ''free-to-pay conversion'' and ''negative option'' sales took advantage of consumers' expectations that they would have an opportunity to accept or reject the membership club offer at the end of the trial period.

SEC. 3. PROHIBITIONS AGAINST CERTAIN UNFAIR AND DECEPTIVE INTERNET SALES PRACTICES.

(a) REQUIREMENTS FOR CERTAIN INTERNET-BASED SALES.—It shall be unlawful for any post-transaction third party seller to charge or attempt to charge any consumer's credit card, debit card, bank account, or other financial account for any good or service sold in a transaction effected on the Internet, unless—

(1) before obtaining the consumer's billing information, the post-transaction third party seller has clearly and conspicuously disclosed to the consumer all material terms of the transaction, including—

(A) a description of the goods or services being offered;

(B) the fact that the post-transaction third party seller is not affiliated with the initial merchant, which may include disclosure of the name of the post-transaction third party in a manner that clearly differentiates the post-transaction third party seller from the initial merchant; and

(C) the cost of such goods or services; and

(2) the post-transaction third party seller has received the express informed consent for the charge from the consumer whose credit card, debit card, bank account, or other financial account will be charged by—

(A) obtaining from the consumer—

(i) the full account number of the account to be charged; and

(ii) the consumer's name and address and a means to contact the consumer; and

(B) requiring the consumer to perform an additional affirmative action, such as clicking on a confirmation button or checking a box that indicates the consumer's consent to be charged the amount disclosed.

(b) PROHIBITION ON DATA-PASS USED TO FACILITATE CERTAIN DECEPTIVE INTERNET SALES TRANSACTIONS.—It shall be unlawful for an initial merchant to disclose a credit card, debit card, bank account, or other financial account number, or to disclose other billing information that is used to charge a customer of the initial merchant, to any post-transaction third party seller for use in an Internet-based sale of any goods or services from that post-transaction third party seller.

(c) APPLICATION WITH OTHER LAW.—Nothing in this Act shall be construed to supersede, modify, or otherwise affect the requirements of the Electronic Funds Transfer Act (15 U.S.C. 1693 et seq.) or any regulation promulgated thereunder.

(d) DEFINITIONS.—In this section:

(1) INITIAL MERCHANT.—The term ''initial merchant'' means a person that has obtained a consumer's billing information directly from the consumer through an Internet transaction initiated by the consumer.

(2) POST-TRANSACTION THIRD PARTY SELLER.—The term ''post-transaction third party seller'' means a person that—

(A) sells, or offers for sale, any good or service on the Internet;

(B) solicits the purchase of such goods or services on the Internet through an initial merchant after the consumer has initiated a transaction with the initial merchant; and

(C) is not—

(i) the initial merchant;

(ii) a subsidiary or corporate affiliate of the initial merchant; or

(iii) a successor of an entity described in clause (i) or (ii).

SEC. 4. NEGATIVE OPTION MARKETING ON THE INTERNET.

It shall be unlawful for any person to charge or attempt to charge any consumer for any goods or services sold in a transaction effected on the Internet through a negative option feature (as defined in the Federal Trade Commission's Telemarketing Sales Rule in part 310 of title 16, Code of Federal Regulations), unless the person—

(1) provides text that clearly and conspicuously discloses all material terms of the transaction before obtaining the consumer's billing information;

(2) obtains a consumer's express informed consent before charging the consumer's credit card, debit card, bank account, or other financial account for products or services through such transaction; and

(3) provides simple mechanisms for a consumer to stop recurring charges from being placed on the consumer's credit card, debit card, bank account, or other financial account.

SEC. 5. ENFORCEMENT BY FEDERAL TRADE COMMISSION.

(a) IN GENERAL.—Violation of this Act or any regulation prescribed under this Act shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices. The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(b) PENALTIES.—Any person who violates this Act or any regulation prescribed under this Act shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated in and made part of this Act.

(c) AUTHORITY PRESERVED.—Nothing in this section shall be construed to limit the authority of the Commission under any other provision of law.

SEC. 6. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) RIGHT OF ACTION.—Except as provided in subsection (e), the attorney general of a State, or other authorized State officer, alleging a violation of this Act or any regulation issued under this Act that affects or may affect such State or its residents may bring an action on behalf of the residents of the State in any United States district court for the district in which the defendant is found, resides, or transacts business, or wherever venue is proper under section 1391 of title 28, United States Code, to obtain appropriate injunctive relief.

(b) NOTICE TO COMMISSION REQUIRED.—A State shall provide prior written notice to the Federal Trade Commission of any civil action under subsection (a) together with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such action.

(c) INTERVENTION BY THE COMMISSION.—The Commission may intervene in such civil action and upon intervening—

(1) be heard on all matters arising in such civil action; and

(2) file petitions for appeal of a decision in such civil action.

(d) CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prevent the attorney general of a State, or other authorized State officer, from exercising the powers conferred on the attorney general, or other authorized State officer, by the laws of such State; or

(2) to prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

(e) LIMITATION.—No separate suit shall be brought under this section if, at the time the suit is brought, the same alleged violation is the subject of a pending action by the Federal Trade Commission or the United States under this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. BOUCHER. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BOUCHER. Madam Speaker, I yield myself such time as I may consume.

I am pleased to rise in support this afternoon of S. 3386, the Restore Online Shoppers' Confidence Act. The legislation makes essential protections to consumers in the Internet marketplace.

The rapid growth of online commerce has brought great benefits to merchants and consumers alike. Creative retailers can reach a broader market, while resourceful shoppers can compare deals and find exactly the right product for themselves. Internet commerce is now a core part of the daily lives of millions of Americans, and overall, more than one-half of all adults, at some point, have made an online purchase. But large percentages of consumers also report feeling frustrated, overwhelmed, and confused by online shopping, often because they face unfamiliar, aggressive sales tactics online.

Last year, an investigation by the Senate Commerce, Science, and Transportation Committee confirmed the

pervasive use of misleading tactics by even some of the Web's most prominent, trusted retailers. The committee concluded that while consumers are heavily involved in Internet commerce, they are struggling to stay free of unwanted charges on their credit cards or their debit cards.

The bill now before the House focuses on two common deceptive tactics: post-transaction marketing and ''data pass.''

Post-transaction marketing occurs when a consumer purchasing something from a trusted vendor is presented with offers from unrelated sellers promising savings on the initial transaction as well as future purchases. These third-party sellers often do not make clear that they are distinct entities and that agreeing to their offer constitutes a wholly separate transaction with an entirely new set of terms. The legislation would bring these transactions into the light and make them much easier for consumers to follow. It would also put an end to ''data pass'' during these transactions, in which the first seller shares a consumer's credit card number with the third-party seller without the knowledge or consent of the consumer. The legislation returns to consumers the power to control when and with whom their sensitive financial information is shared.

The Restore Online Shoppers' Confidence Act, as passed by the Senate, serves to protect the consumer in the online marketplace.

I want to say thank you to Senator ROCKEFELLER, the chief sponsor of the measure in the other body, and to his staff for their determined work, as well as to Congressman SPACE, on our Energy and Commerce Committee, for his sponsorship of this measure in the House.

Through this legislation, consumers will be empowered to make smart decisions online and protect their bank accounts. I urge strong support for the passage of the bill.

Madam Speaker, I reserve the balance of my time.

Mr. TERRY. Madam Speaker, unfortunately, I rise today in opposition to S. 3386, the Restore Online Shoppers' Confidence Act. This bill would regulate e-commerce, specifically, negative option marketing and third-party billing.

The Committee on Energy and Commerce has not held a single hearing or markup on this legislation or any legislation similar in concept. Furthermore, it has been less than 2 weeks since the majority first raised the issue with minority staff and informed us of their intentions to place this bill on the suspension calendar.

We have not held a single stakeholders meeting regarding this legislation, nor have we spoken with the Federal Trade Commission about how they would implement this legislation or if they feel it is necessary. In fact, we had not one single stakeholder call, email, or letter or one single call, email, or letter from the regulator on this issue until Monday. Since then, we have received a number of stakeholder calls voicing concerns with the legislation. However, without holding any hearings or meetings, we can't properly evaluate these concerns.

As has been aptly demonstrated by the majority's health care bill and the CPSIA, the consumer protection bill that we've had to make several changes to, the heavy hand of Federal regulation is prone to producing unforeseen and unacceptable consequences on the Nation's economy.

On its face, this may not be something we'd oppose if we had a record to prove it's necessity and to inform us as to the proper way to address the potential problems that this bill is meant to solve, but we have absolutely no record on this matter; and the House, therefore, cannot responsibly pass this bill to the President's desk to become law.

House Republicans are more than willing to work with our counterparts on the other side of the aisle and with our colleagues in the Senate next Congress to build a record and address if this issue is proven necessary. Based solely on a complete lack of process, not necessarily the merits, but on the process, I urge opposition to this legislation.

□ 1210

Madam Speaker, in closing, I want to commend Mr. BOUCHER, the telecom chair. He has been an awesome chair for telecom, in fact, I would have to say in the United States House of Representatives, and I am even going to throw in the Senate. He is by far the most informed and educated on telecom Internet issues. So when RICK BOUCHER stands up to discuss an issue that affects e-commerce and the Internet, we listen.

It is unfortunate that we are having a debate on this bill on process and not on the merits, because on the merits we are going to listen to RICK BOUCHER. And I just want to thank him for his service to Congress, his tutelage towards me on telecom issues in Congress. I for one, and I can say all of us on the Energy and Commerce Committee, are going to miss RICK BOUCHER next term.

I yield back the balance of my time.

Mr. BOUCHER. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I want to express appreciation for the gentleman from Nebraska for those very kind comments, and I want to also say what a privilege it has been working with him. He and I together have structured a number of items of legislation.

For example, we advanced to the Energy and Commerce Committee a measure that comprehensively reforms the Federal Universal Service Fund and has obtained the endorsement of virtually all of the stakeholders who have expressed interest in that very complex subject. It has been a pleasure working with the gentleman as that work has been undertaken.

His comments are really humbling to me, and I want to thank him for saying those things and just express what a privilege it has been for me to work with the gentleman and with all members of the Energy and Commerce Committee during these 28 years. It has been a service that will certainly be the high point of my career, and I thank all members for their many courtesies.

Madam Speaker, I strongly encourage the passage of this legislation.

I yield back the balance of my time.

Mr. TERRY. Madam Speaker, I ask unanimous consent to reclaim my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. TERRY. At this time, I will yield such time as he may consume to the ranking member of the Energy and Commerce Committee from Texas, JOE BARTON.

Mr. BARTON of Texas. Thank you.

Madam Speaker, I apologize. I was in my office and listening to the debate. I heard my distinguished senior Republican rise in reluctant opposition to the bill. I had had a conversation which Mr. TERRY was not aware of with the chairman of the committee, Mr. WAXMAN, in which I expressed the same concerns that Mr. TERRY expressed, but because of the policy implications of the bill, agreed that it should be supported. I told him that I would encourage the Republicans on the committee and in the full House to support it. Mr. TERRY did not know that, and he was doing what we had decided before I talked to Mr. WAXMAN.

I would not normally rush to the floor; but given that I had given my word to Chairman WAXMAN, I felt the necessity to express to the subcommittee chairman, Mr. BOUCHER, that while we agree with all the process arguments that Mr. TERRY enunciated and think they are very valid, the policy in the bill is good policy, and I would ask that it be supported for that reason.

I thank the gentleman from Nebraska for yielding.

Mr. TERRY. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. BOUCHER) that the House suspend the rules and pass the bill, S. 3386.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TRUTH IN CALLER ID ACT OF 2009

Mr. BOUCHER. Madam Speaker, I move to suspend the rules and pass the